

STATE OF HAWAII  
DEPARTMENT OF LAND AND NATURAL RESOURCES  
Land Division  
Honolulu, Hawaii 96813

June 9, 2006

Board of Land and Natural Resources  
State of Hawaii  
Honolulu, Hawaii

PSF No.: 06od-100

OAHU

Sale of Reclaimed (Filled) Land to Tsugio Ueyama, as Trustee of the Tsugio Ueyama Revocable Living Trust dated July 10, 2001, Jane N. Ueyama, as Trustee of the Jane N. Ueyama Revocable Living Trust dated July 10, 2001, and Lynn Wong, Wailupe, Honolulu, Oahu, TMK (1) 3-6-003:015 seaward and Cancellation of Grant of Non-Exclusive Easement S-5669.

APPLICANTS:

Tsugio Ueyama, as Trustee of the Tsugio Ueyama Revocable Living Trust dated July 10, 2001, Jane N. Ueyama, as Trustee of the Jane N. Ueyama Revocable Living Trust dated July 10, 2001, and Lynn Wong, Tenants in Common, whose mailing address is 5311-J Kalaniana'ole Highway, Honolulu, Hawaii 96821.

LEGAL REFERENCE:

Section 171-53, Hawaii Revised Statutes, as amended.

LOCATION:

Portion of Government lands located seaward of (1) 3-6-003:015 situated at Wailupe, Honolulu, Oahu, as shown on the attached map labeled Exhibit A.

AREA:

146 square feet, more or less.

ZONING:

State Land Use District: Conservation

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State  
Constitution: YES \_\_\_\_\_ NO x

CURRENT USE STATUS:

Grant of Non-Exclusive Easement S-5669 for seawall and reclaimed land to Tsugio and Jane Ueyama, trustees, and Lynn Wong.

CONSIDERATION:

One-time lump sum payment of fair market value to be determined by independent or staff appraiser, subject to review and approval by the Chairperson; provided that if the reclaimed land has been filled in or made with the prior approval of government authorities, and not otherwise filled in or made contrary to the public interest, it may be disposed of at fair market value of the submerged land, but if the reclaimed land has been filled in or made otherwise, it shall be disposed of at the fair market value of the reclaimed or fast land.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

During their inspection the Coastal Land Program (CLP) staff observed the subject seawall appeared long established before 1974, i.e. prior to the enactment of the environmental assessment law.

DCCA VERIFICATION:

Individuals, not applicable.

APPLICANTS REQUIREMENTS:

Applicants shall be required to:

- 1) Pay for an appraisal to determine one-time payment of fair market value for the reclaimed (filled) land; and
- 2) Consolidate the reclaimed land with the applicant's abutting property through the County subdivision process.

REMARKS:

Previously, the applicants applied for a City and County building permit that required a shoreline certification, which revealed the seawall and filled land encroachment. The applicants wrote a letter to Land Division dated May 22, 2002, requesting an easement and asking to pay a deposit to process the grant of easement and shoreline certification simultaneously. During the processing of the easement, staff and the applicants became aware that the date of the seawall construction qualified for purchase. Recently, Ms. Wong wrote that the family decided it is in their best interest to purchase rather than lease the reclaimed land. They are requesting a purchase if they can cancel the easement and apply a pro-rated consideration refund toward the purchase price. The 55-year easement cost of \$11,300.00 was based on the 2002 appraisal. The appraisal determined the annual rent to be \$493.00 (rounded). The easement commenced on July 12, 2002. If the subject purchase

agreement is in July 2006, then four years rent (\$1,790.00 discounted at 4%) should be deducted and the balance applied to the purchase price.

With respect to a possible purchase, aerial photos dated January 20, 1961 clearly show the seawall. Also, staff was provided an affidavit signed by a neighbor who moved onto his property in 1951, stating that the wall was present in 1951, providing additional evidence that the structure was present prior to 1962 and qualifies for a sale of State land. Therefore, staff believes the consideration for the sale shall be disposed of at the fair market value of the reclaimed or fast land.

The Department of Hawaiian Home Lands, Office of Hawaiian Affairs and the City and County of Honolulu, Dept. of Planning and Permitting all replied to our request for comments memorandum indicating they had "no objections".

The applicants have not had a lease, permit, easement or other disposition of State lands terminated within the last five years due to non-compliance with such terms and conditions.

RECOMMENDATION: That the Board, subject to the applicants fulfilling all of the applicants' requirements listed above:

1. Authorize cancellation of Grant of Non-Exclusive Easement S-5669 prior to the execution of the quitclaim deed for the sale of the subject reclaimed land.
2. Authorize the subject request to be applicable in the event of a change in the ownership of the abutting parcel described as tax map key: (1) 3-6-003:015, provided the succeeding owner has not had a lease, permit, easement or other disposition of State lands terminated within the last five (5) years due to non-compliance with such terms and conditions.
3. Find that the sale of the subject reclaimed land is not prejudicial to the best interest of the State, community or area in which subject reclaimed land is located.
4. Authorize the sale of the subject reclaimed land to Tsugio Ueyama, as Trustee of the Tsugio Ueyama Revocable Living Trust dated July 10, 2001, Jane N. Ueyama, as Trustee of the Jane N. Ueyama Revocable Living Trust dated July 10, 2001, and Lynn Wong, covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
  - a. Application of payments for the term easement toward the purchase price;

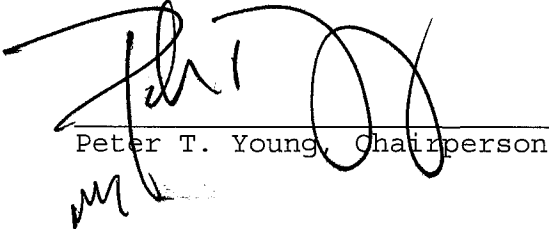
- b. The Grantee shall consolidate the reclaimed land with the Grantee's abutting property through the County subdivision process;
- c. The standard terms and conditions of the most current deed or grant (reclaimed land) form, as may be amended from time to time;
- d. Review and approval by the Department of the Attorney General; and
- e. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,



Al Godar  
Land Agent

APPROVED FOR SUBMITTAL:

  
Peter T. Young, Chairperson

